

accompany the assignee's release prior to final payment under cost-reimbursement contracts.

(c) EPA Form 1900-5, Contractor's Assignment of Refunds, Rebates and Credits, at 1553.232-72 must be prepared by the Contractor prior to final payment under cost-reimbursement contracts and must accompany the Contractor's Release.

(d) EPA Form 1900-6, Contractor's Release, at 1553.232-73 must be submitted by the Contractor prior to final payment under cost-reimbursement contracts.

Subpart 1532.9—Prompt Payment

1532.908 Contract clauses.

The Contracting Officer shall insert a clause substantially the same as that at 1552.232-70 in all solicitations and contracts for cost reimbursable acquisitions. If a fixed-rate type contract is contemplated, the Contracting Officer shall use the clause with its Alternate I.

[61 FR 29317, June 10, 1996]

PART 1533—PROTESTS, DISPUTES AND APPEALS

Sec.

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AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

SOURCE: 50 FR 14359, Apr. 11, 1985, unless otherwise noted.

1533.000 Scope of part.

This part implements and supplements FAR part 33 and prescribes policies and procedures for processing protests and contract disputes and appeals.

Subpart 1533.1—Protests

1533.103 Protests to the Agency.

1533.103-70 Time for filing.

(a) Protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals shall be filed prior to bid opening or the closing date for receipt of initial proposals. In acquisitions where proposals are requested, alleged improprieties which do not exist in the initial solicitation but which are subsequently incorporated into the solicitation must be protested not later than the next closing date for receipt of proposals following the incorporation.

(b) In cases other than those covered in paragraph (a) of this section, protests shall be filed not later than ten working days after the basis of protest is known or should have been known, whichever is earlier.

Subpart 1533.2—Disputes and Appeals

1533.203 Applicability.

Pursuant to an interagency agreement between the EPA and the Department of the Interior Board of Contract Appeals (IBCA), the IBCA will hear appeals from final decisions of EPA Contracting Officers issued pursuant to the Contract Disputes Act. The rules and regulations of the IBCA appear in 43 CFR part 4.

1533.212 Contracting Officer's duties upon appeal.

Upon receipt of notice of appeal, the Contracting Officer shall take the following actions:

(a) *Submission of the notice of appeal to IBCA.* (1) When a notice of appeal in any form has been received, the Contracting Officer shall endorse on it the date of the notice's mailing (or the date of receipt if the notice was otherwise conveyed) and within 5 days shall forward the notice of appeal to the IBCA by certified mail. The Contracting Officer shall verbally notify the legal counsel that the appeal has been received.

(2) A notice of appeal, whether filed within the time prescribed by the "Disputes" clause or not, shall be submitted to the IBCA. The Contracting Officer shall forward promptly every notice of appeal to IBCA even if the intention to appeal is only vaguely or indirectly expressed, and regardless of the form of the notice, or of the method by which the notice was furnished to the Contracting Officer.

(3) Copies of the notice of appeal shall be sent simultaneously to the Quality Assurance Branch, Office of Acquisition Management and to legal counsel.

(b) *Establishment and submission of appeal files to IBCA.* (1) Following receipt of a notice of appeal, or advice that an appeal has been filed, the Contracting Officer shall promptly compile the appeal file (copies of all documents pertinent to the appeal), and four duplicate appeal files. The file shall include the following:

(i) The findings of fact and the Contracting Officer's final decision from which the appeal is taken, and the letter or letters or other documents of claim in response to which the decision was issued;

(ii) The contract, and pertinent plans, specifications, amendments, and change orders;

(iii) Correspondence between the parties and other data pertinent to the appeal;

(iv) Transcripts of any testimony taken during the course of proceedings and affidavits, or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board;

(v) Such additional information as may be considered material.

(2) In addition to the above, the Contracting Officer shall prepare an index listing each document included in the file submitted to the IBCA, and place copies of such index in the submission and duplicate files.

(3) Contracting Officers, in making the submission, may not submit original documents which are a part of the official contract file. Copies of the pertinent documents shall be submitted.

(4) Within 15 days of receipt or advice of a notice of appeal, the official and two duplicate files shall be forwarded through legal counsel to the Office of Acquisition Management for review. The Procurement and Contracts Management Division shall forward the official appeal file to the IBCA within the 30 day time limitation set forth in 43 CFR 4.104(a). One duplicate file shall be retained by the Contracting Officer, one by the Procurement and Contracts Management Division, and one by legal counsel.

(5) If for any reason the Contracting Officer anticipates that a timely submission cannot be made, he/she shall immediately advise legal counsel by telephone of the extent of the anticipated delay and the reasons therefor. However, every effort will be exerted to make timely submissions.

(6) At the time of transmittal of the appeal file to the Board, the Contracting Officer shall notify the appellant of the transmittal and provide a copy of the appeal file to the appellant. Within the transmittal to the IBCA, the Contracting Officer shall indicate that the appellant has been provided with a copy of the appeal file.

[50 FR 14359, Apr. 11, 1985, as amended at 59 FR 18977, Apr. 21, 1994]